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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

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AUG 19 2011

GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF
NAVOPACHE ELECTRIC COOPERATIVE, INC.
FOR A DETERMINATION OF THE FAIR VALUE
OF ITS PROPERTY FOR RATEMAKING
PURPOSES, TO FIX A JUST AND REASONABLE
RETURN THEREON AND TO APPROVE RATES
DESIGNED TO DEVELOP SUCH RETURN.

DOCKET NO. E-01787A-11-0186

PROCEDURAL ORDER

BY THE COMMISSION:

On April 29, 2011, Navopache Electric Cooperative, Inc. ("Navopache") filed with the Arizona Corporation Commission ("Commission") an application for a determination of the fair value of its property for ratemaking purposes, to fix a just and reasonable return thereon and to approve rates designed to develop such return.

On July 26, 2011, Invenergy Wind Development, LLC ("Invenergy") filed a Petition for Leave to Intervene. In its Petition, Invenergy states that its business is focused on development, operation and management of large-scale electricity generation assets in the North American markets, and that it is currently developing a wind energy project in eastern Arizona to be sited within Navopache's service territory. Invenergy is seeking to interconnect to Navopache's 69kV transmission system. Invenergy states that Navopache's tariff does not currently provide any procedure, method, or provisions for interconnection of an electric generation facility to the Navopache system. Invenergy asserts that A.R.S. § 40-332(B) requires any utility regulated by the Commission to allow "third party generation facilities" access to electric transmission services.¹

¹ A.R.S. § 40-332 provides as follows:

40-332. Power of commission to order joint use of facilities belonging to public service corporation

A. When the commission finds that public convenience and necessity require the use by one public service corporation of the equipment, or any part of the equipment, on, over or under any street or highway belonging to another public service corporation, that the use will not result in irreparable injury to the other users thereof or in any substantial detriment to the service and that the public service corporations have failed to agree upon the use or the terms and conditions of the use, the commission may by order direct that such use be permitted and may prescribe reasonable compensation and terms

1 Invenergy contends in its Petition that any Decision in this ratemaking proceeding should
2 require Navopache to establish and publish interconnection provisions and procedures that would
3 facilitate interconnection of generating facilities to the Navopache system in a timely manner.

4 On August 4, 2011, Navopache filed its Opposition to Intervention of Invenergy. Navopache
5 asserts that interjecting the interconnection issues into this rate proceeding would unduly increase the
6 time and expense of the ratemaking process. Navopache states that Invenergy is not a Navopache
7 customer, and that the Petition does not allege facts demonstrating that Invenergy would be directly
8 and substantially affected by this ratemaking proceeding.

9 Navopache also takes issue with Invenergy's assertions in regard to the requirements of
10 A.R.S. § 40-332(B). Navopache contends that Invenergy lacks standing to invoke the statute,
11 because it is neither a public service corporation holding a certificate of convenience and necessity,
12 nor a self-generator of electricity. Navopache further asserts that the statute does not require
13 provision of access to Navopache's system, but to transmission service and distribution service.
14 Navopache asserts that it does not provide transmission service. Navopache contends that it is not
15 appropriate to evaluate in this docket Invenergy's request for access to Navopache's 69kV system in
16 order to make wholesale or retail sales to third parties.

17 Navopache states that it is willing to engage in discussions with Invenergy regarding
18 interconnection, and that Invenergy may request Commission review pursuant to the Commission's
19 complaint procedures in the event a mutual resolution cannot be reached.

20 On August 12, 2011, Invenergy filed its Reply to Navopache's Opposition to its Petition.
21 Invenergy asserts that Navopache has proposed in its rate application a Tariff Schedule No. 12 which
22 seeks to establish a wheeling rate for sub-transmission service through the Navopache system.

23 for the joint use. If the use is directed, the corporation to which the use is permitted shall be liable to the
24 owner or other users of the equipment for damage which results therefrom to the property of the owner
or other users thereof.

25 B. Every public service corporation shall allow every electricity supplier and self-generator of
26 electricity access to electric transmission service and electric distribution service under rates and terms
27 and conditions of service that are just and reasonable as determined and approved by regulatory
agencies that have jurisdiction over electric transmission service and electric distribution service.
28 Nothing in this subsection limits the access of a public power entity as defined in section 30-801 to the
transmission services of public service corporations in accordance with the federal power act, 16 United
States Code section 792.

1 Invenergy contends that the Tariff Schedule No. 12 wheeling rate would apply to output from
2 Invenergy's planned wind farm, and would thus directly and substantially impact the ability of
3 Invenergy to site and develop a wind farm generation project in Navopache's service area. Invenergy
4 contends that if the terms set forth in the proposed Tariff Schedule No. 12 were to be approved, the
5 terms would significantly inhibit and directly affect Invenergy's ability to plan, site, construct and
6 operate any wind farm that would wheel through the Navopache system.

7 In its Reply, Invenergy also outlined the unsuccessful efforts it has made to date to obtain an
8 agreement with Navopache in regard to wheeling the output of Invenergy's planned wind farm over
9 Navopache's 69kV system. Invenergy states that on October 2, 2010, at Navopache's request, it filed
10 a distributed generation interconnection application with Navopache, but that despite regular
11 inquiries, Invenergy has received no response from Navopache in regard to that application.

12 On August 12, 2011, Navopache filed a Response to Invenergy's Reply. Navopache states
13 that contrary to Invenergy's assertions, Tariff No. 12 for Sub-Transmission Service is not an issue in
14 this rate proceeding, because Navopache expressly withdrew that tariff in its July 7, 2011 filing in
15 this docket. Navopache renews its contention that to the extent Invenergy and Navopache are unable
16 to reach a mutually acceptable interconnection agreement, an appropriate course of action for
17 Invenergy would be to file a complaint with the Commission.

18 Navopache's rate application was deemed sufficient by the Commission's Utilities Division
19 ("Staff") on August 8, 2011, based in part on Navopache's supplemental filing made on July 7, 2011.
20 Navopache is no longer proposing the terms in Tariff No. 12 for Sub-Transmission Service.
21 Invenergy's Petition is based on a disagreement with a tariff which is no longer a part of this rate
22 proceeding. Litigation of a potential dispute on an interconnection or wheeling agreement between
23 Invenergy and Navopache would unduly broaden the scope of this rate case proceeding. For that
24 reason, Invenergy's Petition must be denied. If Invenergy is unable to reach a resolution with
25 Navopache and wishes to litigate the issue before the Commission, Invenergy may file a complaint in
26 a separate docket.

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1 IT IS THEREFORE ORDERED that Invenergy's Petition to Intervene is hereby denied.

2 DATED this 19th day of August, 2011.

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5 
6 TEENA JIBILIAN
ADMINISTRATIVE LAW JUDGE


7 Copies of the foregoing mailed/delivered
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